

IC 27-8-15.5

Chapter 15.5. Small Employer Insurer Voluntary Reinsurance Program

IC 27-8-15.5-1

Applicability of definitions

Sec. 1. The definitions set forth in IC 27-8-15 apply throughout this chapter.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-2

"Board" defined

Sec. 2. As used in this chapter, "board" refers to the Indiana small employer health reinsurance board established by section 5 of this chapter.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-3

"Program" defined

Sec. 3. As used in this chapter, "program" refers to the program of reinsurance established by section 6 of this chapter.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-4

"Reinsuring carrier" defined

Sec. 4. As used in this chapter, "reinsuring carrier" means a small employer insurer that obtains reinsurance under this chapter.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-5

Establishment of board

Sec. 5. The Indiana small employer health reinsurance board is established. The board shall supervise and control the program of reinsurance established under this chapter.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-6

Establishment of program

Sec. 6. The Indiana small employer health reinsurance program is established. Any small employer insurer that is doing or planning to do business in Indiana may become a member of the program as described in section 12 of this chapter.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-7

Members of board

Sec. 7. (a) The board consists of the commissioner or the commissioner's designated representative, who serves as an ex officio member of the board, and ten (10) members. The members of the board shall be appointed by the commissioner, who shall name

a chairman of the board one (1) time every three (3) years.

(b) The members of the board appointed under subsection (a) must include the following:

(1) One (1) representative of health maintenance organizations.

(2) One (1) representative of providers (as defined in IC 27-13-1-28).

(3) Six (6) representatives of small employer insurers.

(4) Two (2) representatives of small employers.

(c) A member of the board is appointed for a term of three (3) years.

(d) The term of a board member appointed under subsection (a) continues until the board member's successor is appointed.

(e) The commissioner shall fill a vacancy in an appointive member's position on the board.

(f) A board member may be removed by the commissioner for cause.

(g) At least six (6) members of the board must be present for the board to conduct official business. The affirmative vote of at least six (6) members of the board is necessary for the board to take official action.

(h) The board shall meet at least one (1) time each calendar quarter at the call of the commissioner.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-8

Plan of operation; submission; approval; amendments

Sec. 8. (a) Not later than two hundred seventy (270) days after the appointment of the initial board, the board shall submit to the commissioner a plan of operation.

(b) The commissioner may adopt the plan of operation as a rule under IC 4-22-2 if the commissioner determines the plan will:

(1) ensure the fair, reasonable, and equitable administration of the program; and

(2) provide for the sharing of program gains or losses on an equitable and a proportionate basis in accordance with this chapter.

(c) After the adoption of a plan of operation under this section, the board may submit to the commissioner any proposed amendments to the plan the board considers necessary or suitable to ensure the fair, reasonable, and equitable administration of the program. The commissioner may adopt under IC 4-22-2 proposed amendments submitted under this subsection as amendments to the rule adopted under subsection (b).

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-9

Plan of operation; temporary plan

Sec. 9. (a) If the board fails to submit a suitable plan of operation within the time allowed under section 8 of this chapter, the commissioner shall adopt rules under IC 4-22-2 establishing a

temporary plan of operation.

(b) The commissioner shall amend or rescind under IC 4-22-2 any temporary plan of operation adopted under this section when a plan of operation is submitted by the board and approved by the commissioner.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-10

Plan of operation; requirements

Sec. 10. The plan of operation submitted and adopted under section 8 of this chapter must do the following:

- (1) Establish procedures for the handling and accounting of program assets and money.
- (2) Provide for an annual fiscal report to the commissioner.
- (3) Establish procedures for selecting an insurer to administer the program.
- (4) Establish the powers and duties of the administering insurer, including:
 - (A) notifying all members regarding annual assessments; and
 - (B) collecting of assessments.
- (5) Establish procedures for reinsuring risks under this chapter.
- (6) Establish procedures for collecting assessments from reinsuring carriers to fund claims and administrative expenses that are incurred or estimated to be incurred by the program.
- (7) Establish a methodology for applying the dollar thresholds contained in this chapter in the case of small employer insurers that pay or reimburse health care providers through capitation or salary.
- (8) Provide for any additional matters necessary for the implementation and administration of the program.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-11

Powers of board

Sec. 11. (a) The board, in supervising and controlling the program, has the general powers and authority granted under IC 27 to insurance companies and health maintenance organizations authorized to transact business in Indiana, except the power to issue health insurance plans directly to groups or individuals.

(b) In addition to exercising the powers conferred by subsection (a), the board may do the following:

- (1) Enter into contracts that are necessary or proper to carry out the provisions and purposes of this chapter, including, with the approval of the commissioner, contracts with:
 - (A) similar programs of other states for the joint performance of common functions; or
 - (B) persons or other organizations for the performance of administrative functions.
- (2) Sue or be sued, including taking any legal action necessary or proper to recover assessments and penalties for, on behalf of,

or against the program or any reinsuring insurer.

(3) Take any legal action necessary to avoid the payment of improper claims against the program.

(4) Define the health insurance plans for which reinsurance is provided.

(5) Issue reinsurance policies under this chapter.

(6) Establish rules, conditions, and procedures for reinsuring risks under the program.

(7) Establish actuarial functions as appropriate for the operation of the program.

(8) Impose assessments on reinsuring carriers under this chapter, and make advance interim assessments that are reasonable and necessary for organizational and interim operating expenses.

(9) Appoint appropriate legal, actuarial, and other committees as necessary to provide technical assistance in the operation of the program, policy, and other contract design, and any other function within the authority of the program.

(c) Any interim assessments imposed under subsection (b)(8) shall be credited as offsets against any regular assessments due from reinsuring carriers after the close of the fiscal year.

(d) Any notes or other evidence of indebtedness of the program that are not in default:

(1) are legal investments for small employer insurers; and

(2) may be carried by small employer insurers as admitted assets.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-12

Election to become member of program

Sec. 12. (a) A small employer insurer may elect to become a member of the program by filing a written intention to participate with the commissioner not later than sixty (60) days after the:

(1) board submits a plan of operation to the commissioner and the commissioner adopts the plan under section 8 of this chapter; or

(2) commissioner establishes a temporary plan of operation for the program under section 9 of this chapter;

whichever occurs first.

(b) A small employer insurer that fails to become a member of the program under subsection (a) may only become a member by filing a written intention with the commissioner to participate in the program:

(1) three (3) years; or

(2) at the end of any three (3) year interval;

after the program begins under subsection (a)(1) or (a)(2).

(c) Notwithstanding subsections (a) and (b), the commissioner may permit a small employer insurer to become a member of the program at other times for reasons based on financial solvency.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-13

Maximum level of coverage; other limits on coverage

Sec. 13. (a) The board may establish a maximum level of coverage up to which the program will reinsure a health insurance plan and beyond which the program will not reinsure a health insurance plan.

(b) A member of the program must allow any employer insured by the member to maintain the same health insurance plan and may reinsure only that part of the health insurance plan that is consistent with the program established by the board.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-14

Time requirements for reinsurance

Sec. 14. (a) A small employer insurer may reinsure an entire small employer group not later than sixty (60) days after the commencement of the coverage of the small employer group under a health insurance plan.

(b) A small employer insurer may reinsure coverage of an eligible employee or the dependent of an eligible employee under a health insurance plan issued to a small employer not later than sixty (60) days after the coverage of the eligible employee or dependent of the eligible employee commences.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-15

Reimbursement of reinsuring carriers

Sec. 15. The program may not reimburse a reinsuring carrier with respect to the claims of a reinsured employee or dependent until the reinsuring carrier has incurred an initial level of claims for the employee or dependent of five thousand dollars (\$5,000) in a calendar year for benefits covered by the program. In addition, the reinsuring carrier is responsible for ten percent (10%) of the next fifty thousand dollars (\$50,000) of benefit payments during a calendar year, and the program shall reinsure the remainder. The liability of a reinsuring carrier under this section may not exceed ten thousand dollars (\$10,000) in any calendar year with respect to any reinsured individual.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-16

Adjustments in initial level of claims and maximum limit to be retained

Sec. 16. The board may annually adjust the initial level of claims and the maximum limit to be retained by a reinsuring carrier to reflect increases in costs and utilization within the standard market for health insurance plans in Indiana. The adjustment may not be lower than the annual change in the medical component of the "Consumer Price Index for All Urban Consumers" of the Bureau of Labor Statistics of the United States Department of Labor unless the

board proposes and the commissioner approves a lower adjustment factor.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-17

Termination of reinsurance

Sec. 17. A small employer insurer that issues a health insurance plan to a small employer and obtains reinsurance for the health insurance plan under this chapter may terminate the reinsurance for one (1) or more of the reinsured employees or dependents of the small employer:

- (1) on any anniversary of the health insurance plan; or
- (2) when the reinsured employee leaves the employment of the small employer.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-18

Reduction of premium rates for reinsurance of federally qualified HMOs

Sec. 18. Premium rates charged under this chapter for reinsurance to a health maintenance organization that is federally qualified under 42 U.S.C. 300e et seq., and as such is subject to limits on the amount of risk that may be ceded to the program that are more restrictive than those set forth in section 15 of this chapter, must be reduced to reflect the part of the risk, if any, that may not be ceded to the program due to the more restrictive limits.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-19

Managed care and claims handling techniques

Sec. 19. A reinsuring carrier shall apply all managed care and claims handling techniques, including:

- (1) utilization review;
 - (2) individual case management;
 - (3) preferred provider provisions; and
 - (4) other managed care provisions or methods of operation;
- consistently with respect to reinsured and nonreinsured business.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-20

Methodology for determining premium rates

Sec. 20. (a) The board, as part of the plan of operation adopted under section 8 of this chapter, shall establish a methodology for determining premium rates to be charged by the program for reinsuring small employers and individuals under this chapter.

(b) The methodology established under this section must include a system for classification of small employers that reflects the types of case characteristics commonly used by small employer insurers in Indiana.

(c) The methodology established under this section must provide

for the development of base reinsurance premium rates. The base reinsurance premium rates are multiplied by the factors set forth in section 21 of this chapter to determine the premium rates for the program.

(d) The base reinsurance premium rates referred to in subsection (c) shall be established by the board, subject to the approval of the commissioner.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-21

Multiplication factors for premium rates

Sec. 21. (a) Premiums charged by the program for reinsurance are as follows:

(1) An entire small employer group may be reinsured for a rate that is one hundred fifty percent (150%) of the base reinsurance premium rate for the group that is developed under section 20(c) of this chapter.

(2) An eligible employee or the dependent of an eligible employee may be reinsured for a rate that is five hundred percent (500%) of the base reinsurance premium rate for the individual established under this section.

(b) The board shall periodically review the methodology established under section 20 of this chapter, including the system of classification and any rating factors, to ensure that it reasonably reflects the claims experience of the program. The board may propose changes in the methodology. The changes proposed by the board take effect upon approval by the commissioner.

(c) The board may consider adjustments to the premium rates charged for reinsurance under the program to reflect the use of effective cost containment and managed care arrangements.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-22

Premium rates for health insurance plans to comply with IC 27-8-15

Sec. 22. If a health insurance plan issued to a small employer is entirely or partially reinsured under the program, the premium charged to the small employer for any rating period for the coverage issued must meet the requirements relating to premium rates set forth in IC 27-8-15.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-23

Determination and report of net loss

Sec. 23. (a) Before March 1 of each year, the board shall determine and report to the commissioner the program's net loss for the previous calendar year, including administrative expenses and incurred losses for the year, taking into account investment income and other appropriate gains and losses.

(b) Any net loss for the year shall be recouped by assessments of

reinsuring carriers.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-24

Determination of assessments against reinsuring carriers

Sec. 24. (a) The board, as part of the plan of operation adopted under section 8 of this chapter, shall establish a formula by which to impose assessments against reinsuring carriers.

(b) The assessment formula established under subsection (a) must result in assessments apportioned by the board among all small employer insurers participating in the program in proportion to:

(1) the small employer insurers' respective shares of the total premiums;

(2) the net of reinsurance premiums paid for coverage under the program earned from health insurance plans covering small employers that are issued by participating small employer insurers during the calendar year coinciding with or ending during the fiscal year of the program; or

(3) any other equitable basis reflecting coverage of small employers as may be provided in the plan of operation.

(c) Health insurance plan premiums and benefits paid by a reinsuring carrier that are less than an amount determined by the board to justify the cost of collection shall not be considered for purposes of determining assessments.

(d) An assessment determined under this section may not exceed one percent (1%) of total net premiums annually. If an excess is actuarially projected, the commissioner may take any action necessary to lower the assessment to the maximum level of one percent (1%) of total net premiums.

(e) The board, with the approval of the commissioner, may change the assessment formula established under this section from time to time as appropriate.

(f) Subject to the approval of the commissioner, the board shall make an adjustment to the assessment formula for reinsuring carriers that are approved health maintenance organizations and federally qualified under 42 U.S.C. 300e et seq., to the extent that restrictions are placed on them that are not imposed on other small employer insurers.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-25

Estimates of assessments needed to fund losses

Sec. 25. (a) Before March 1 of each year the board shall determine and file with the commissioner an estimate of the assessments needed to fund the losses incurred by the program in the previous calendar year.

(b) If the board determines that the assessments needed to fund the losses incurred by the program in the previous calendar year will exceed two percent (2%) of total premiums earned in the previous calendar year from health insurance plans delivered or issued for

delivery to small employers by reinsuring carriers, the board shall evaluate the operation of the program and report the board's findings, including any recommendations for changes in the plan of operation adopted under section 8 of this chapter, to the commissioner not more than ninety (90) days after the end of the calendar year in which the losses were incurred. The evaluation must:

- (1) include an estimate of future assessments; and
- (2) consider the:
 - (A) administrative costs of the program;
 - (B) appropriateness of the premiums charged;
 - (C) level of insurer retention under the program; and
 - (D) costs of coverage for small employers.

(c) If the board fails to file a report with the commissioner under subsection (b) not later than ninety (90) days after the end of the calendar year, the commissioner may:

- (1) evaluate the operation of the program; and
- (2) implement the amendments to the plan of operation adopted under section 8 of this chapter that the commissioner considers necessary to reduce future losses and assessments.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-26

Use of excess assessments

Sec. 26. If assessments paid by reinsuring carriers under this chapter exceed the net losses of the program, the excess is held at interest and used by the board to:

- (1) offset future losses, including reserves for incurred but not reported claims; or
- (2) reduce program premiums.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-27

Determination of reinsuring carrier's proportion of assessments

Sec. 27. (a) The board shall annually determine each reinsuring carrier's proportion of the assessment for reinsurance under this chapter based on annual statements and other reports considered necessary by the board and filed with the board by the reinsuring carriers.

(b) The plan of operation adopted under section 8 of this chapter must provide for the imposition of an interest penalty on reinsuring carriers for late payment of assessments.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-28

Deferments from assessments

Sec. 28. (a) A reinsuring carrier may seek from the commissioner a deferment from all or part of an assessment imposed by the board. The commissioner may defer all or part of the assessment of a reinsuring carrier if the commissioner determines that the payment of the assessment would place the reinsuring carrier in a financially

impaired condition.

(b) If all or part of an assessment against a reinsuring carrier is deferred under subsection (a), the amount deferred is assessed against the other reinsuring carriers in a manner consistent with the basis for assessment under this chapter.

(c) A reinsuring carrier that receives a deferment under this section:

(1) remains liable to the program for the amount deferred; and

(2) may not reinsure an individual or a group with the program until the reinsuring carrier pays the assessment.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-29

Participation not to be basis for legal action, liability, or penalty

Sec. 29. The participation of small employer insurers in the program as reinsuring carriers, the establishment of rates, forms, or procedures under this chapter, or any other joint or collective action required by this chapter may not be the basis of any legal action, criminal or civil liability, or penalty against the program or any of the program's reinsuring carriers, either jointly or separately.

As added by P.L.193-1996, SEC.1.

IC 27-8-15.5-30

Tax exemption

Sec. 30. The program is exempt from all taxes imposed by the state.

As added by P.L.193-1996, SEC.1.